



# **Notes from the Director**

**No. 41**

5 April 1979

## **FORMATION OF CIA EXECUTIVE COMMITTEE**

Frank Carlucci and I have felt the need to have a better means of obtaining an Agency-wide point of view on problems that come before us for decision. It is one thing to staff our paperwork so that all concerned components have an opportunity to comment. It is quite another to have a forum in which the participants are encouraged to take the viewpoint of what is best for the Agency as a whole, as well as expressing the outlook of their individual constituencies. Accordingly, in order to help bring together a better Agency focus on problems, I have established a CIA Executive Committee, which will replace the Executive Advisory Group (EAG). Although its role will not differ significantly from the EAG, the new title more accurately describes the Committee, which has been newly energized.

The Committee will consist of the Deputy Director for Administration, the Deputy Director for Operations, the Deputy Director for Science and Technology, the Deputy Director for National Foreign Assessment, the Comptroller, and the Director, Equal Employment Opportunity. Other senior officers will be asked to participate on subjects of particular concern to them. I will chair the Committee; the DDCI will be Vice Chairman. In addition there will be a small and permanent staff for the Executive Committee. It will be responsible for ensuring that all the Committee members have the appropriate materials for each meeting; that these materials are in the best form for making decisions; and particularly that all alternatives are available for consideration. The Executive Committee will build on the experience of the EAG, but the emphasis will shift to Agency policy issues and important long-range planning problems. My hope is that the Committee, which will meet weekly and have substantial full-time support, will provide us with an *Agency* perspective that has been lacking in several areas.

We are now looking at a list of candidate agenda topics including substantive issues such as identifying and planning for the critical intelligence problems of the next five to ten years.

I believe the creation of the Executive Committee is an important move that will bring the members of our management team in closer touch on matters of importance to all of us. I will keep you informed of its progress.

## **AN EVALUATION OF AGENCY PERSONNEL MANAGEMENT**

In November 1978, I announced that a review would be made of the entire Agency personnel system by an expert, outside source. I am pleased to inform you

that this has now been accomplished. After a four-month review, a team from the National Academy of Public Administration (NAPA) has submitted a report which will be the basis for future actions enabling all of us to better fulfill the Agency's mission.

The NAPA team concludes that our current personnel system is basically sound and serves the Agency well. The team, however, recommends that a number of adjustments be made to the system and their recommendations will be fully considered. Copies of their full report have been sent to the Deputy Directors, major staff offices, the Office of Personnel, the Executive Committee and the MAGs for review and comment.

In concluding its report the NAPA team suggested that those recommendations finally adopted be implemented or phased in gradually because the cumulative impact on the Agency could be significant and we must take care not to upset the stability of our personnel management system. I concur with this suggestion and endorse a thoughtful positive approach to modifying our present personnel programs. The newly established Executive Committee will undertake consideration of the recommendations of this report as one of its first actions. You will be kept informed as decisions are made and actions are initiated.

## THE SNEPP APPEAL

On March 20, 1979, the U.S. Court of Appeals for the Fourth Circuit in Richmond, Virginia issued its opinion in the case *United States v. Frank W. Snepp, III*. I am sure that many of you have read the newspaper accounts of the opinion and have seen television reports on this subject. Since there is still considerable uncertainty in the minds of many employees about what the court did or did not hold, the following constitutes a brief summary of the major rulings of the court.

1. The Entry on Duty Secrecy Agreement that Frank Snepp signed was held to be a legally binding contract not in violation of any first amendment rights. In this regard, the court affirmed its earlier decision in *United States v. Victor L. Marchetti (466 F2d 1309)* which upheld the constitutionality of the CIA secrecy agreement.

2. Frank Snepp was found to have breached his secrecy agreement by failing to submit his book *Decent Interval* to the Agency for review prior to publication to ensure that it did not contain classified information. He is enjoined from publishing any further works concerning CIA or intelligence activities generally, based on information acquired in the course of his Agency employment, without first submitting them to the Agency for review. The court held that the prepublication review requirement applies to all manuscripts concerning CIA or intelligence activities that are prepared by former Agency employees who have signed secrecy agreements of the type signed by Snepp.

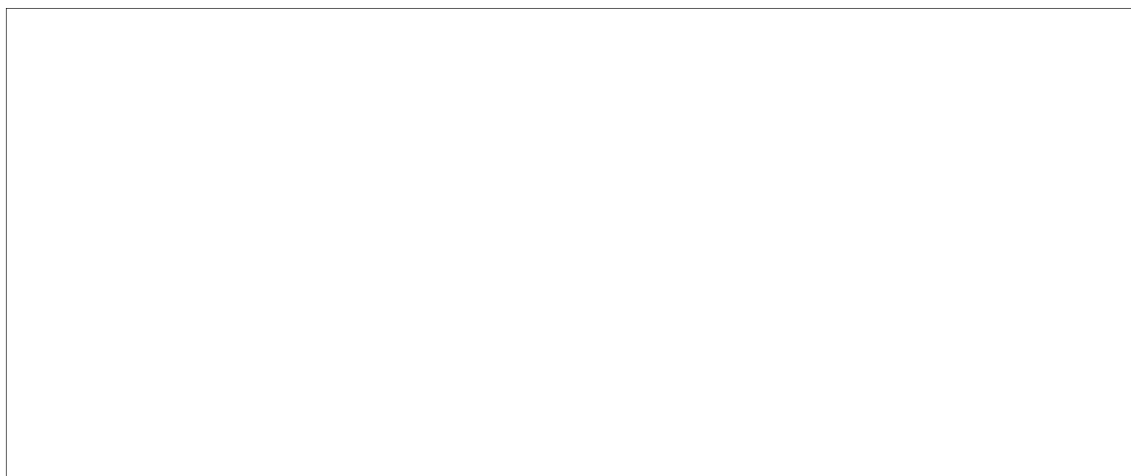
3. Snepp's defenses that the terms of the Termination Secrecy Agreement superseded the Entry on Duty Secrecy Agreement, that he was not allowed to air his grievances about the evacuation of Saigon in-house, that he was misled about the meaning of the Entry on Duty Secrecy Agreement and that he was "singled out" for "prosecution" by the government were all held to be legally insufficient and rejected by the Court.

4. CIA will not be allowed to recover Snepp's earnings from the book based on a theory of "constructive trust." Rather, the court found that CIA can seek a

jury trial to recover punitive damages from Snepp on the basis of his deliberate violation of his secrecy agreement. The extent of the damages that might be awarded by a jury is of course uncertain, but the award might well equal, and conceivably could exceed, the profits that Snepp derived from the book. The purposes of punitive damages are to punish an individual for his misconduct and to deter others from engaging in similar conduct.

5. The court also said that it would have upheld a recovery of Snepp's earnings on a "constructive trust" theory had CIA alleged, which it did not, and proved that the book contained classified information. What that means is that a trust remedy will be available against others who include information that can be shown to be classified in books that are published without prior Agency review.

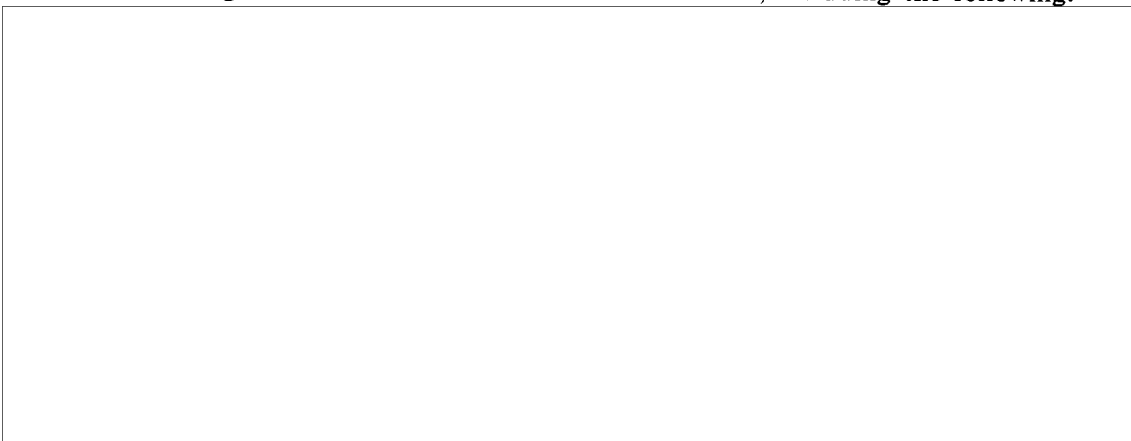
In summary, The Appeals Court has firmly upheld our position that the Secrecy Agreement is a valid contract, that Frank Snepp breached that contract and that damages may be recovered for that violation. It simply ruled that the legal basis on which a constructive trust had been awarded by the District Court was not proper and that further legal action to recover damages will be necessary before a jury.



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## PRESIDENTIAL RECOGNITION LETTERS

In Notes No. 37, 8 January 1979, I mentioned that 11 Agency employees received Presidential Letters of Commendation during 1978. I am especially proud to announce that thus far in 1979 an additional 23 Agency employees have received Presidential Letters of Commendation for their suggestions and achievements. Heartiest congratulations to all who have been honored, including the following:



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We have been informed by the Director of Incentive Systems, Office of Personnel Management:

- That 30 departments and agencies have thus far received Presidential Recognition Letters for their employees.
- That 34 CIA employees have now received Presidential Letters for their suggestions or achievements, for total savings of \$729,528.
- That we are seventh in total number of employees recognized ninth in cases submitted, and tenth in overall benefits.

We have thus far outperformed several agencies having much larger strength, which does not surprise me. Please join me in applauding the honorees.

## SENIOR REVIEW PANEL

The new Senior Review Panel, established to assist the Deputy Director for National Foreign Assessment and me in improving the quality of major intelligence products and their usefulness to policymakers, has been operating for several months. Its functions are to review both Intelligence Community and National Foreign Assessment Center products at various stages in their preparation, to audit finished intelligence, and to advise the Deputy Director for National Foreign Assessment in overall production planning. The Panel promises to provide a valuable crosscheck on our objectivity by ensuring an independent view of both the process and the product of intelligence.

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Our analytical effort will benefit from the cumulative experience and acumen of the three distinguished panel members: Ambassador William Leonhart, [redacted] [redacted] who bring with them a wealth of relevant experience from the diplomatic, academic and military communities.

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I know that all employees join me in welcoming the members of the Senior Review Panel as they join us in our common goal of providing the leaders of our government with the best intelligence analysis of which we are capable. Following is a brief introduction to each Panel member.

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